

KENTUCKY PERSONNEL BOARD
MINUTES OF AUGUST 10, 2012

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chairman Doug Sapp on August 10, 2012, at approximately 9:30 a.m., 28 Fountain Place, Frankfort, Kentucky.

Board Personnel Present:

Wayne "Doug" Sapp, Chairman
Larry B. Gillis, Vice Chairman
David B. Stevens, Member
David F. Hutcheson, Jr., Member
Tommy W. Chandler, Member
Donald W. "Don" Blevins, Member
Ramona Herndon-Griffin, Member
Mark A. Sipek, Executive Director and Secretary
Boyce A. Crocker, General Counsel
Linda R. Morris, Administrative Section Supervisor
Cynthia Perkins, Administrative Specialist

Swearing in new Board member Ramona Herndon-Griffin

The first order of business was for Mr. Crocker to swear in new Board Member Ramona Herndon-Griffin. Ms. Herndon-Griffin will serve the remainder of Ms. Susan Gardner's term which expires on June 30, 2014

2. **READING OF THE MINUTES OF REGULAR MEETING HELD JULY 13, 2012**

The minutes of the last Board meeting had been previously circulated among the members. Chairman Sapp asked for additions or corrections. Dr. Stevens moved to approve the minutes, as submitted. Mr. Hutcheson seconded, and the motion carried 6-0. [Mr. Blevins was not present to vote.] The Board members signed the minutes.

3. EXECUTIVE DIRECTOR'S REPORT

Mr. Sipek welcomed the newest Board Member, Ms. Ramona Herndon-Griffin.

Mr. Sipek advised that copies of amended regulations and statutes would be provided to the Board members and Hearing Officers to update their binders, with the exception of Ms. Herndon-Griffin who received an updated binder this morning.

At the conclusion of Mr. Sipek's report, Chairman Sapp called for the Personnel Cabinet's report.

4. PERSONNEL CABINET'S REPORT

The Hon. Dinah Bevington came forward to present the Personnel Cabinet's report.

Ms. Bevington stated Mr. Blevins' request for information regarding where Kentucky ranks with other employers is still being compiled.

The Cabinet is gearing up for open enrollment of employee health insurance. Ms. Bevington stated that she will provide more information at the next Board meeting.

Ms. Bevington advised that regulation amendments will be forthcoming either at the September or October Board meeting.

Upon conclusion of the Personnel Cabinet's report, Chairman Sapp called the parties forward for oral argument.

5. ORAL ARGUMENTS

A. Hershel Adkins v. Justice and Public Safety Cabinet (Corrections) and Charles Pennington

Present for oral argument were counsel for Appellant, the Hon. Robert Abel, counsel for Appellee, the Hon. Stafford Easterling; and counsel for Intervenor, the Hon. Michael Kalinyak. After presenting oral arguments, the parties answered questions from the Board.

6. INVESTIGATIONS

Department of Agriculture: Referral of Personnel Matters in the Auditor's Report and the Anonymous Request for Investigation.

Chairman Sapp asked for an update of the Agriculture investigation.

Mr. Sipek stated that other agencies have been contacted that are investigating this matter and have shared information. Some documents have been gathered from Agriculture. Mr. Sipek stated it is a long process, but he plans on interviewing witnesses soon.

7. CLOSED SESSION

Mr. Gillis moved that the Board go into Executive Session for the purposes of discussing complaints, proposed or pending litigation, and deliberations regarding individual adjudications. Dr. Stevens seconded. Chairman Sapp stated that the motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. Pursuant to KRS 61.810(1) (c), (f), and (j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be discussion of proposed or pending litigation against or on behalf of the Board; and deliberations regarding individual adjudication. The motion carried 7-0. (11:25 a.m.)

Prior to open session, Mr. Gillis left the Board meeting.

Judge Chandler moved to return to open session. Mr. Hutcheson seconded and the motion carried 6-0. (12:05 p.m.)

8. CASES TO BE DECIDED

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments where applicable.

A. Hershel Adkins v. Justice and Public Safety Cabinet (Corrections) and Charles Pennington

Mr. Hutcheson moved to note Appellant's exceptions, Intervenor's exceptions, Appellee's exceptions, Intervenor's response to Appellant's exceptions and oral arguments and to defer this matter to the next Board meeting. Mr. Blevins seconded and the motion carried 6-0.

B. Terri Richardson v. Cabinet for Health and Family Services
(Deferred from July Meeting)

Mr. Blevins moved to note Appellee's exceptions, Appellant's response and oral arguments, and to accept the Final Order Altering the recommended order and dismissing the appeal, as attached to the minutes. Mr. Hutcheson seconded and the motion carried 5-0.

C. Denise Ford v. Transportation Cabinet

Mr. Blevins moved to note Appellant's exceptions and Appellee's response and to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 6-0.

D. Linda Durham v. Justice and Public Safety Cabinet (Corrections)

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 6-0.

Show Cause Orders – No Response Filed – Appeals Dismissed

The following cases had a show cause order entered by the hearing officer recommending that the appeals be dismissed for failure to timely prosecute unless a statement was filed by the Appellants stating sufficient cause to excuse their failure to appear at the scheduled hearing. There was no response submitted by the Appellants to the show cause orders.

- E. Heather Hylton v. Department of Veterans' Affairs
- F. Carolyn Saunders-Haygood v. Justice and Public Safety Cabinet (Corrections)
- G. Cherie Fisher v. Justice and Public Safety Cabinet (Corrections)

Mr. Blevins moved to find that the Appellants had not responded to the show cause order and that the recommended orders be accepted *en bloc* dismissing the appeals for failure to timely prosecute the appeals. Ms. Herndon-Griffin seconded and the motion carried 6-0.

9. WITHDRAWALS

Judge Chandler moved to consider the following withdrawals of appeals *en bloc* and to accept the withdrawals and dismiss the appeals. Dr. Stevens seconded and the motion carried 6-0.

- A. Kenneth Jones v. Justice and Public Safety Cabinet (Corrections)
- B. Brenda Watson v. Personnel Cabinet

10. SETTLEMENTS

Mr. Hutcheson moved to accept the following settlements *en bloc*, as submitted by the parties, and to sustain the appeals to the extent set forth in the settlement. Ms. Herndon-Griffin seconded and the motion carried 6-0.

- A. Rebecca M. Perkins v. Cabinet for Health and Family Services
- B. Melissa Mendick v. Cabinet for Health and Family Services
- C. William Pospishil v. Labor Cabinet
- D. Tasha Reigel v. Cabinet for Health and Family Services

11. OTHER

Mr. Blevins apologized for being late to the meeting and asked about the report he requested from the Personnel Cabinet. Chairman Sapp stated that the Cabinet was working on it and should have something to the Board soon. Mr. Blevins stated that he is interested because the buzz across the country is that public employees are grossly overpaid; however, he does not believe that Kentucky state employees are overpaid. He is also concerned about the evaluation system with a majority of the employees being rated so high. He wants the Cabinet to look at the figures and adjust their review system to the national review.

Chairman Sapp stated that he read an article that health insurance is an important factor to applicants looking for jobs in both the public and private sectors, and that salary is a second consideration. Mr. Hutcheson said that costs for health insurance are massive for families.

Chairman Sapp asked if there were any other matters to be discussed. There being no further business, Judge Chandler moved to adjourn. Dr. Stevens seconded and the motion carried 6-0. (12:15 p.m.)

Wayne D. Sapp, Chairman

Larry B. Gillis, Vice Chairman

David B. Stevens, Member

David F. Hutcheson, Jr., Member

Tommy Chandler, Member

Donald W. Blevins, Member

Ramona Herndon-Griffin, Member